

REMARKS

The Examiner misstates what is recited in the application. Ms. Rhee states, “The applicant's admitted prior art discloses a ballistic resistant zone of protection wall comprising” a plurality of row of adjacent abutted sheets of UL listed ballistic fibreglass sheets having a UL listing of any LU level 1, UL level 2 or UL level 3. Only the underlined section of this long sentence is factually correct. The rest of the sentence as set forth without the underline is incorrect.

The only purpose of Figure 1 is to show the type of batten. The statement about the fastener going through all the rows of fibreglass in Figure 1 is correct.

Next we look at the sentence that is in the office action that says, “However Klein recites that the abutment of any two sheets of ballistic material is spaced for the abutment of any two sheets in any row (col 3 line 46-49) for the purpose of achieving a higher level of ballistic protection.”

This statement is not correct. That is not what Klein states. He never says that the purpose of spacing employed is for the purpose of achieving a higher level of ballistic protection. This is not stated at the reference page 3 line 46-19, all that is discussed in the area is about straight on impact of arrow 28, and how the plurality of layers become rigid. Reference is made to the text of Klein.

IT IS ALSO TO BE NOTED THAT THE NATURE OF THE MATERIAL OF KLEIN DIFFERS FROM APPLICANT. The word fibreglass never appears in the patent of Klein.

A reading of the text indicates that the layup of Figure 2is as follows: 38) FABRIC-Broadcloth; 34) RUBBER; 18) ALUMINUM OR PLASTIC; 32) ADHESIVE; 16) ALUMINUM OR PLASTIC; 30) TAPE; 36) KEVLAR FABRIC; 38) FABRIC.

These are two panels involved in Klein, used to make the overgarment shown in Figure 1. The garment is designed to permit flexing. See Figures 5-6.

There is no teaching in Klein about ballistic resistance. The layers of the two panels 16 and 18 are made to bend with the body. See column 3 line 22 that talks about hinging. There is nothing to tie Klein to the purpose of applicant's invention nor to the prior art teachings. Klein shows off set layers of different materials for the purpose of achieving a hinge. The physical configuration from a top plan view somewhat resembles applicant's structure as to the ZIGZAG. But nothing else.

Let us look at the exact quote of the reference of the Examiner. Look at column 3 line 46-19. But let us first back up to line 44 to put everything into proper context.

1 *Thus, the effect of the impact along arrow 28 [in the MIDDLE OF PANEL, NOT AT A*
2 *LATERAL INTERFACE, SEE FIGURE FOR CONFIRMATION] is to render each panel 16*
3 *and 18 rigid. It is to be appreciated that this could not be achieved if each panel segment of*
4 *panel 16 was coincident with or superposed with one and only one panel segment of panel 18.*

5 Continuing on, *The array level is crucial because the impacting on any one central*
6 *segment of panel 18 is transmitted to four segments etc., etc., etc.*

7 It is to be seen that the reference is talking about force and shock waves, not penetration.
8 The invention of this application has two parts to it. First, the combining of low-level ballistic
9 fibreglass to achieve higher levels of protection; and second, the elimination of the battens used
10 by the prior art by the offsetting arrangement employed here. Contrast the top plan view of
11 conventional installation of Figure 2 to applicant's installation of Figure 4.

12 Counsel has quoted in full col 3 lines 49-50 and has read thoroughly down to line 59. It
13 CANNOT be inferred from a reading of this text that a higher level of protection in fibreglass
14 sheets will be achieved from the use of the ZIGZAG pattern alone. The protection afforded by
15 this invention is the ZIGZAG AND the lower-level material used in combination.

16 As it is, Klein uses different materials for different purposes, and his panels are GLUED
17 together to form a laminate, Applicant does not form a laminate. Only screws are used to attach
18 the various plies.

19 Counsel acknowledges the correctness of the statement of the Examiner that "because a
20 staggered layer has more ballistic protection due to the difficulty of a bullet penetrating through
21 the seam which is a concurrence in a superimposed layer." Even if this is accepted as a given,
22 that is not the totality of the invention of this case. By using lower-level, lowcost, low weight
23 materials in the ZIGZAG pattern, applicants achieve protection previously only available from
24 high priced heavy goods. The Examiner must view this invention in the proper light. That is,
25 compare Figure 2 to Figure 4. That is the nature of the device.

26 **Counsel submits that there is absolutely no basis in the prior art and no basis other**
27 **than from a reading of this application to conclude that. One of ordinary skill in the art**
28 **would have recognized that abutting sequentially a plurality of sheets of a lower-level**
29 **protection ballistic fibreglass in various combinations and staggering the disposition of the**
30 **sheets that the desired level 4, 5, 7, or 8 of protection can be achieved.**

31 Counsel is a former Examiner of over 4 years experience many years ago. To conclude
32 that something is obvious, there has to be a basis from which the conclusion of obviousness can
33 be drawn. Here not only is the Examiner required to say a procedure is obvious, but here she has

1 to take two steps of obviousness. A reading of Klein who uses different materials for a different
2 purpose sheds no light, nor does applicant's prior art teach anything about combining lower-level
3 ballistic fibreglass to achieve higher levels of protection.

4 When Figure 4 is contrasted with Figure 2 it is seen that two things are different, the sheet
5 order and the types of sheets.

6 This invention has led to the savings of costs, time and labor, because battens are not
7 used, and because compared to a 100 pound sheet of level 5 fibreglass, a workman can easily
8 carry and install level 1-3 material.

9 ****

10 As to the rejection that adds Dickson the allegation of what Dixon teaches is not correct.
11 Dickson has one panel of two different materials. He has a laminate. Look at the cover drawing
12 and at the abstract. Applicants have no laminates. Just individual layers secured only by screws.
13 Laminates have different materials. Also note that Dickson is fabric, in the form of woven roving.
14 Again different material from rigid fibreglass sheets. And the word "sheet" appears in the claims
15 as examined.

16 There is no basis for the conclusion of obviousness to have a particular layer of level 3
17 disposed interiorly of level 1 or level 2 material. The recitation of woven filaments at line 2 of
18 the office action has no bearing here. The materials differ. Dickson has soft woven fabric.
19 Applicant has rigid material.

20 The Examiner is requested to put forth the basis for her belief of obviousness, as counsel
21 sees none. No teaching from which to make this leap of faith.

22 What applicant's prior art talks about is the use of thick battens in conjunction with
23 various levels of protection to form an impenetrable zone. There is no prior art teaching about
24 using low-level protection to achieve high levels of protection. It is not previously taught. Low-
25 levels give you low protection high level sheets give you high level protection. Battens were used
26 to protect those in the protection zone, should a shooter get lucky and fire his/her bullet between
27 adjacent panels.

28 Only applicants have come up with the idea of using low-level sheets of fibreglass in the
29 ZIGZAG pattern without battens. The absence of the battens is seen by the use of
30 "CONSISTING" as opposed to "COMPRISING".

31 And, it is only applicants who made the finding as to orientation set forth in claim 13.

32 Counsel acknowledges that the addition of gypsum board is for cosmetics only. The basic
33 invention is believed to be patentable when viewed in light of the correct prior art- FIGURE 2

1 versus FIGURE 4. If the other claims are patentable as is believed, claim 12 is also.

2 Counsel believes that the Examiner is trying to read too much into or rather get too much
3 out of Klein and Dickson. These two references are about very different specific structures of
4 different materials. The purposes of the references are different, one an over garment, the other
5 a wearable garment. Applicant has sheets 4X6 or 4X8 not woven flexible materials that one can
6 wear on the body.

7 In conclusion, the subject matter of this case is being commercialized by the assignee
8 which is in the protection zone business. As such, Counsel is willing to further amend the claims
9 to add a wherein clause or other detail as the Examiner may see fit, in order to get the case
10 allowed.

11 As noted from page 1, a request is made to discuss this case with the Examiner by phone
12 in order to try to assure allowance of the claims.

13
14 Respectfully submitted,

15
16
17
18 Mark C. Jacobs, 24043

19 Attorney for Applicant(s)

20 sactopat@aol.com

21

22

23

24

25

26

27

28

29

30

31

32

33